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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/020,122 02/06/98 KIRKLIN

F 980106

EXAMINER

LM02/0609

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PATEL, J

ART UNIT

PAPER NUMBER

2765

DATE MAILED:

06/09/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/020,122

Applicant(s)

Kirklin et al.

Examiner

Jagdish Patel

Group Art Unit

2765



☒ Responsive to communication(s) filed on Mar 28, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-50 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 1-39 is/are allowed.

☒ Claim(s) 40-42 and 50 is/are rejected.

☒ Claim(s) 43-49 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 8

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Continued Prosecution Application

1. The request filed on 3/28/00 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/020,122 is acceptable and a CPA has been established. An action on the CPA follows.

Response to Amendment

2. New claims 32-50 have been added and examined.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wiens et al. (US Pat. 5,808,894).

Regarding claim 40 Wiens et al. disclose a method of merchandise ordering and order fulfillment, said method comprising:

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providing an order processing system comprising a central station interfaced to a telephone communication network so as be accessible to customers by telephone for creation of a merchandise order (vendor computer is interfaced to the customer computer via telephone line col. 4 L 25-37); and

assembling a customer order for fulfillment, including the steps of:

requesting from a customer a product identification of a product item and a quantity of the product item to be added to the merchandise order (the customer composes an order off-line and then connects to the vendor computer (col. 4 L 45-59));

receiving a requested product identification and a requested product quantity from a customer (the customer transmits the order to the vendor computer as recited in col. 5 L 39-50);

Wiens et al. Fails to teach the confirmation as recited.

Official notice is taken that confirmation of purchase order including the identity and quantity of the product item by a vendor or a merchant to the customer prior to execution of a purchase order is old and well known step practiced in sales and purchasing of merchandise and services.

It would have been obvious to one of ordinary skill in the art at time of the invention was made to incorporate the step of confirming the identity and quantity of the product item in the merchandise order because this step would prevent or eliminate possible error in the identity and the quantity of the ordered item thereby improving the accuracy of the purchase order.

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5. Claims 41, 42 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiens et al. (US Pat. 5,808,894) and further in view of Doyle et al. (US Pat. 5,694,551).

Wiens et al. Fail to teach that the confirming step includes reciting a product description and a product price of the product item corresponding to the product item to the product identification. Doyle et al. in the same field of endeavor however, disclose an electronic purchase order system for channeling customer orders to the suppliers and vendors which teaches the merchandise order confirmation step including reciting to the customer a product description and a price of the product item (col. 5 L 49-65).

It would have been obvious to one of a ordinary skill in the art at the time of the applicant's invention to incorporate the reciting of the product description and the product price as claimed because the this step would inform the customer of the quantity and pricing of the purchases and would provide opportunity to communicate any desired changes to the purchase order.

Regarding claim 42, the Doyle et al. method of merchandise ordering and order fulfillment teaches the step of determining if the customer has an unfulfilled merchandise order by checking an unfulfilled merchandise database (col. 3 L 8-23).

Regarding claim 50, Wiens et al or Doyle et al fail to teach that the order assembling step includes determining whether the product identification entered by the customer is valid product identification.

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Official notice is taken that validation of product identification in a purchase order is old and well known step practiced in sales and purchasing of merchandise and services.

It would have been obvious to one of ordinary skill in the art at time of the invention was made to incorporate the product validation step because the customer would have opportunity to correct the error and reenter a correct product identification thereby ensuring fulfillment of all products in the purchase order.

Allowable Subject Matter

6. Claims 32-39 are allowed.
7. Claims 43-49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art Cited

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jagdish Patel whose telephone number is (703) 308-7837. The examiner can normally be reached Monday-Thursday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen MacDonald, can be reached at (703) 305-9708.

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The fax number for Formal or Official faxes to Technology Center 2700 is (703) 308-9051 or 9052. Draft or Informal faxes for this Art Unit can be submitted to (703) 308-5397.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

JNP 6/2/00



TODD R. SWANN
SUPERVISORY PATENT EXAMINER
GROUP 2700